IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT APPEAL NO : 1621 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 10/08/2004 in WP NO : 14055 OF 2004 on the file of the High Court.)

Between:

The Fishermen Co-operative Society, Kakani (V), Narsaraopet (M), rep.by its President T.Gurumurthy.

..... APPELLANT

AND

1 Harijana Fishermen Mutually Aided Co-operative society Ltd., rep.by its

President Ch.Anjaiah, S/o.Nagaiah, R/o.Kakani (V), Narsaraopet, (M),

Guntur Dist.
2 The Commissioner & Director of Fisheries, Hyderabad.
3 The Assistant Director of Fisheries, Pattabhipuram, Guntur.
4 The Dist. Collector (Fisheries), Guntur.

.....RESPONDENTS

Counsel for the Appellant:MR.B.SAI RAM GOUD

Counsel for the Respondent No.1: Mr.P.Govind Reddy, Advocate

Counsel for the Respondents 2 to 4: GP FOR FISHERIES

The Court made the following O R D E R:

(Per the Hon'ble Sri Justice B.Sudershan Reddy)

The learned Judge, in our considered opinion, ought not to have disposed of the writ petition that has resulted in far-reaching consequences so far as the appellant society is concerned at the stage of admission and more so, without the appellant being impleaded as a party-respondent.

The learned Judge while disposing of the writ petition directed the Assistant Director of Fisheries, Pattabhipuram, Guntur, not only to conduct the auction, but also permit the first respondent-writ petitioner to participate in the auction for fishing rights, without deciding as to whether the first respondent-writ petitioner is eligible and entitled to participate in the auction. The learned Judge having said that the public auction is restricted to the eligible Fishermen Cooperative Societies ought not to have directed the Assistant Director of Fisheries to permit the first respondent-writ petitioner to participate in the auction. That such direction amounts to deciding the right of the first respondent-writ petitioner as if it has become eligible to participate in the auction.

Having regard to the nature of controversy between the appellant society and the first respondent-writ petitioner society and having regard to the order passed by the District Collector, dated 29-10-2001, which was not admittedly placed before the learned Judge, we consider it appropriate to set aside the order under appeal and direct the writ petition to be heard finally.

The impugned order under appeal is accordingly set aside. The writ petition is admitted. Registry is directed to post this writ petition for final hearing on **13th December, 2004,** subject to part-heard cases. The Assistant Director of Fisheries and the District Collector shall file their affidavits in the mater, within two weeks from today. In view of this order, notification issued by the respondents, proposing to hold the auction cannot be given effect to and the same shall be subject to the order to be passed in the writ petition.

The writ appeal is accordingly allowed. No order as to costs.

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(B. Sudershan Reddy,J)

Date:22nd November, 2004.

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(T.Ch.Surya Rao, J)

vrn/pv

To

1 Harijana Fishermen Mutually Aided Co-operative society Ltd., rep.by its

President Ch.Anjaiah, S/o.Nagaiah, R/o.Kakani (V), Narsaraopet, (M),

Guntur Dist.
2 The Commissioner & Director of Fisheries, Hyderabad.
3 The Assistant Director of Fisheries, Pattabhipuram, Guntur.
4 The Dist. Collector (Fisheries), Guntur.

5 Two C.Cs to the G.P. for Fisheries, High Court Buildings, A.P., Hyderabad

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